

HOUSE BILL NO. 549

INTRODUCED BY D. HIMMELBERGER

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ENGLISH PROFICIENCY FOR LICENSING OF DRIVERS; REQUIRING A DRIVER'S LICENSE TO SHOW THE COUNTRY OF CITIZENSHIP IF OTHER THAN THE UNITED STATES; PROVIDING AN APPROPRIATION; AND AMENDING SECTIONS 61-5-105, 61-5-111, AND 61-5-125, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 61-5-105, MCA, is amended to read:

**"61-5-105. Who may not be licensed.** The department may not issue a license under this chapter to a person:

(1) who is under 16 years of age unless:

(a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or

(b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;

(2) whose license or driving privilege is currently suspended, revoked, or canceled or who is disqualified from operating a commercial motor vehicle in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;

(3) who is addicted to the use of alcohol or narcotic drugs;

(4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided by law;

(5) who is required by this chapter to take an examination;

(6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title;

(7) who has any condition characterized by lapse of consciousness or control, either temporary or

1 prolonged, that is or may become chronic. However, the department may in its discretion issue a license to an  
 2 otherwise qualified person suffering from a condition if the afflicted person's attending physician attests in writing  
 3 that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate  
 4 a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate  
 5 a commercial motor vehicle under applicable state or federal regulations;

6 (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate  
 7 a motor vehicle on the highway;

8 (9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or

9 (10) who does not submit proof satisfactory to the department that the applicant's presence in the United  
 10 States is authorized under federal law. The department may not accept as a primary source of identification a  
 11 driver's license issued by a state if the state does not require that a driver licensed in that state be lawfully present  
 12 in the United States under federal law.

13 (11) who fails an English proficiency test as provided in 61-5-125."

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15 **Section 2.** Section 61-5-111, MCA, is amended to read:

16 **"61-5-111. Contents of driver's license, renewal, renewal by mail, license expirations, grace**  
 17 **period, and fees for licenses, permits, and endorsements -- notice of expiration.** (1) (a) The department may  
 18 appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts.  
 19 The department shall adopt necessary rules governing sales. In areas in which the department provides driver  
 20 licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an  
 21 agent to sell receipts.

22 (b) The department may enter into an authorized agent agreement with the county treasurer of any  
 23 county in which the department no longer maintains a driver examination station for the purpose of providing  
 24 driver's license renewal services.

25 (2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's  
 26 license to each qualifying applicant. The license must contain:

27 (i) a full-face photograph of the licensee in the size and form prescribed by the department;

28 (ii) a distinguishing number issued to the licensee;

29 (iii) the full legal name, the date of birth, the Montana mailing address, ~~and~~ a brief description of the  
 30 licensee, and the country of citizenship if other than the United States; and

1 (iv) either the licensee's customary signature or a digital reproduction of the licensee's customary  
2 signature.

3 (b) The department may not use the licensee's social security number as the distinguishing number  
4 unless the licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.

5 (3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records  
6 check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's  
7 eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

8 (i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may  
9 impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle  
10 on the highway; and

11 (ii) the expired or expiring license does not include adaptive equipment or operational restrictions  
12 appropriate to the applicant's functional abilities; or

13 (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

14 (b) In the case of a commercial driver's license, the department shall, if the information was not provided  
15 in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the  
16 applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately  
17 preceding the date of the renewal application and may also require that the applicant successfully complete a  
18 written examination as required by federal regulations.

19 (c) A person is considered to have applied for renewal of a Montana driver's license if the application  
20 is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in  
21 subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's  
22 examination station.

23 (d) (i) Except as provided in subsections (3)(d)(iv) through (3)(d)(vi), a person may renew a driver's  
24 license by mail if the person certifies that the person is temporarily out of state and will not be returning to the  
25 state prior to the expiration of the license. A person may not renew by mail for a subsequent license term after  
26 a mail renewal, except that a spouse or dependent of a person stationed outside Montana on active military duty  
27 may renew a driver's license by mail for one additional consecutive term following a mail renewal.

28 (ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision  
29 examination and a medical evaluation from a licensed physician in addition to the fees required for renewal.

30 (iii) If the department does not have a digitized photograph or signature record of the renewal applicant

1 from the expiring license, then the department may require the renewal applicant to submit a personal photograph  
2 and signature that meets the requirements prescribed by the department.

3 (iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail is 8 years.

4 (v) The department may not renew a license by mail if:

5 (A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for  
6 the applicant; or

7 (B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the  
8 retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572.

9 (vi) If a license was issued to a foreign national whose presence in the United States is temporarily  
10 authorized under federal law, the license may not be renewed by mail.

11 (e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than  
12 30 days prior to the expiration date of a driver's license. Except as provided in 61-3-119 and 61-5-115, the  
13 department shall mail the notice to the Montana mailing address shown on the driver's license.

14 (4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of  
15 the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs  
16 first.

17 (b) A license issued to a person who is 75 years of age or older expires on the anniversary of the  
18 licensee's birthday 4 years or less after the date of issue.

19 (c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

20 (d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary  
21 of the licensee's birthday 5 years or less after the date of issue.

22 (ii) When a person obtains a Montana commercial driver's license with a hazardous materials  
23 endorsement after surrendering a comparable commercial driver's license with a hazardous materials  
24 endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday  
25 5 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's  
26 license information system, a security threat assessment was performed on the person as a condition of issuance  
27 of the surrendered license.

28 (e) A license issued to a person who is a foreign national whose presence in the United States is  
29 temporarily authorized under federal law expires, as determined by the department, no later than the expiration  
30 date of the official document issued to the person by the bureau of citizenship and immigration services of the

1 department of homeland security authorizing the person's presence in the United States.

2 (5) When the department issues a driver's license to a person under 18 years of age, the license must  
3 be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

4 (6) (a) Upon application for a driver's license or commercial driver's license and any combination of the  
5 specified endorsements, the following fees must be paid:

6 (i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

7 (ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

8 (iii) commercial driver's license:

9 (A) interstate -- \$10 a year or fraction of a year; or

10 (B) intrastate -- \$8.50 a year or fraction of a year.

11 (b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents."  
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13 **Section 3.** Section 61-5-125, MCA, is amended to read:

14 **"61-5-125. Authority of department -- rulemaking authority.** (1) The department shall administer and  
15 enforce the provisions of this chapter.

16 (2) The department shall adopt rules setting standards to govern driver's license examinations and  
17 reexaminations. The rules:

18 (a) must specifically address the functional abilities and skills required for a person to exercise ordinary  
19 and reasonable control in the safe operation of a motor vehicle on a highway;

20 (b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and  
21 restricted licensure and may include minimum field of vision and depth perception requirements and hearing  
22 requirements for unrestricted and restricted licensure;

23 (c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability  
24 to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test  
25 may consist of:

26 (i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration  
27 of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

28 (ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the  
29 department, as related to a specific physical or mental condition or conditions or a request for reexamination;

30 (d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

1 (e) may take into consideration any nationally recognized standards or recommended practices for  
2 assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor  
3 vehicle on the highway;

4 (f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational  
5 limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;

6 (g) must include an English proficiency test, to be administered, as needed, at the discretion of the agent  
7 conducting the licensing, that is designed to test English language ability at a level consistent with what a person  
8 would reasonably need to be able to read directional and safety road signs and to follow instructions of peace  
9 officers and emergency personnel;

10 ~~(g)~~(h) may be derived from medical guidelines and information compiled by driver licensing medical  
11 advisory or review boards from other jurisdictions, as well as information received from advocacy groups for  
12 persons with disabilities and senior citizens; and

13 ~~(h)~~(i) except as provided in 61-5-105, may not use a person's age or physical or mental disability,  
14 limitation, or condition as a justification for denial of a license.

15 (3) The department may adopt additional rules governing:

16 (a) acceptable methods of proof of identification that must be supplied by a person upon application for  
17 or renewal of a driver's license;

18 (b) issuance of a hardship license to an underage applicant;

19 (c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license  
20 fees;

21 (d) circumstances under which the department may issue a probationary license to a person whose  
22 license has been suspended or revoked or a person whose license is subject to a discretionary suspension or  
23 revocation;

24 (e) restrictions to be imposed upon a probationary license;

25 (f) renewal of a driver's license by a person in the military assigned to active duty who had a valid  
26 Montana driver's license at the time of entering active duty;

27 (g) issuance of a replacement driver's license; and

28 (h) a determination of the driver's license expiration date, minimum and maximum license terms, and  
29 license renewal requirements for a driver's license issued to a person who is a foreign national whose presence  
30 in the United States is temporarily authorized under federal law."

